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Attorneys for Plaintiffs

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

PLANNED PARENTHOOD FEDERATION
OF AMERICA, INC., et al.,

Plaintiff,

vs.

CENTER FOR MEDICAL PROGRESS, et al.,

Defendants.

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Case No. 3:16-cv-00236-WHO

**DECLARATION OF OSCAR RAMALLO
IN SUPPORT OF PLAINTIFFS' MOTION
FOR ATTORNEYS' FEES AND NON-
STATUTORY COSTS**

Date: November 18, 2020

Time: 2:00 p.m.

Place: Courtroom 2, 17th Floor

Judge: Hon. William H. Orrick

1 I, Oscar Ramallo, declare:

2 1. I have been an active member of the State Bar of California since 2005. I am a
3 Senior Associate at Arnold & Porter Kaye Scholer LLP (“A&P”). I joined A&P in January
4 2017, when Arnold & Porter LLP merged with Kaye Scholer LLP. I joined Kaye Scholer LLP
5 in 2006.

6 2. If called as a witness, I could and would testify from my personal knowledge to
7 the facts stated herein.

8 3. I graduated from UCLA School of Law in 2005 and was elected to the Order of
9 the Coif. While at UCLA, I served as an Articles Editor for the UCLA Law Review. After
10 law school, I served as a law clerk for the Honorable Mary M. Schroeder, who at the time was
11 the Chief Judge of the United States Court of Appeals for the Ninth Circuit.

12 4. My practice at Kaye Scholer LLP and A&P has focused on civil litigation,
13 including intellectual property, contract disputes, and business torts. I regularly serve as the
14 primary drafter of summary judgment briefs, motions in limine, jury instructions, and post-
15 trial motions, in both state and federal courts. I have second-chair trial experience in complex
16 federal litigation and in California state court. I also have first-chair trial experience as a
17 volunteer prosecutor for the Los Angeles City Attorney. I have served as the primary drafter
18 of briefs filed in the Ninth Circuit, other federal circuits, the California Courts of Appeal, and
19 the California and United States Supreme Courts.

20 5. I maintain an active pro bono practice, in areas such as free speech and religious
21 freedom. For example, I obtained a protective order against a subpoena seeking to unmask the
22 identity of an anonymous journalist. I also represent an activist who was denied a government
23 benefit in retaliation for her speech and protests against the government, and a prison inmate
24 seeking accommodations from prison officials for his religious practices.

25 6. I have been recognized as a “Rising Star” by *Los Angeles* magazine in a survey
26 of legal professionals in the Los Angeles area.

27 7. It is my habit to contemporaneously enter time into the firm’s electronic billing
28 system. All the statements in this declaration about how much time I spent on various aspects of

1 this case are based on my review of time summaries prepared by A&P's accounting department,
2 which reflect the hours I entered into the billing system.

3 8. My standard hourly rate in 2020 is \$910. My standard hourly rate in 2019 was
4 \$865. Based on my 14 years of experience litigating matters in California and throughout the
5 United States, I am familiar with the range of fees charged in the market. Arnold & Porter's
6 rates are within this range.

7 9. I have been personally and continuously involved in representing Plaintiffs in
8 this matter since May 29, 2019, when the parties were drafting their respective summary
9 judgment oppositions. While I spent some time prior to this date in a consulting role, I was not
10 significantly involved in this matter until briefing of Plaintiffs' opposition to Defendants'
11 motion for summary judgment. Accordingly, Plaintiffs are not claiming any of my time for
12 the period before May 29, 2019.

13 10. In preparing Plaintiffs' opposition to Defendants' motion for summary
14 judgment, I was primarily responsible for drafting the opposition to Defendants' arguments
15 concerning RICO and the opposition to Defendants' second anti-SLAPP motion. Drafting
16 these arguments was unusually time-consuming, for several reasons.

17 11. First, I had to master the facts of the case as they concerned the individual
18 Defendants. For example, Defendant Newman largely refused to testify about his role, while
19 arguing that he had almost no involvement in Defendants' activities. Likewise, Defendant
20 Rhomberg claimed that he knew nothing about Defendants' conspiracy, while Defendant
21 Lopez denied knowledge of Defendants' RICO enterprise. Refuting these arguments required
22 engaging in a time-consuming process of piecing together documents produced in the case and
23 the testimony of other witnesses to build a case against these Defendants.

24 12. Another important issue raised in Defendants' motion was whether Plaintiffs
25 could sustain a RICO claim based on "foreseeable" harm beyond the first step of causation.
26 Because RICO provides the basis for treble damages and attorney's fees and is also the tort
27 predicate for Plaintiffs' federal wiretapping claims, I necessarily spent a significant amount of
28

1 time researching and drafting the opposition to Defendants' RICO causation and damages
2 arguments.

3 13. The opposition to Defendants' anti-SLAPP motion was also unusually complex
4 because it required addressing the differing anti-SLAPP laws and doctrines in California,
5 Florida, Maryland, Colorado, and the District of Columbia.

6 14. I was also involved in drafting portions of Plaintiffs' reply briefing on summary
7 judgment, including the fraud sections. Defendants raised a number of arguments in opposition
8 to Plaintiffs' fraud claims that made the reply briefing more time-consuming than a typical
9 brief on common law fraud. For example, Defendants (1) made fine-grained distinctions of the
10 elements of fraud under the laws of Florida, Texas, the District of Columbia, and the other
11 relevant jurisdictions; and (2) argued that the First Amendment barred Plaintiffs' fraud claims.

12 15. After the reply briefing, the Court's tentative opinion addressing the parties'
13 summary judgment motions asked the parties to address whether there was any precedent on
14 whether Defendants could file a successive anti-SLAPP motion. The Court's tentative required
15 me to conduct additional research on anti-SLAPP authority, and I argued this issue at the July
16 17, 2019 hearing.

17 16. After excluding time spent on excessive research, I spent approximately 138
18 hours on briefing and participating in the hearing on the summary judgment and anti-SLAPP
19 motions.

20 17. During the pre-trial phase that followed summary judgment, I drafted numerous
21 jury instructions, drafted the verdict form, participated in a mock jury exercise, drafted motions
22 in limine and oppositions to motions in limine, drafted briefing on adverse inferences, and
23 presented oral argument on preliminary jury instructions at the September 23, 2019 pretrial
24 conference. The jury instructions and verdict form were particularly complex, given the
25 number of Plaintiffs and Defendants and claims and defenses in the case and given Defendants'
26 objections to nearly all of Plaintiffs' instructions, resulting in over 700 pages of proposed
27 instructions, objections, and replies to objections. It also took a significant amount of work to
28 draft a verdict form that obtained all necessary information from the jury, while, at the same

1 time, making the form as juror-friendly as possible. Between July 22, 2019 and September 29,
2 2019, I spent approximately 209 hours on these pre-trial tasks.

3 18. During trial, I assisted in drafting mid-trial briefing, continued to revise the jury
4 instructions and verdict form, and presented oral argument on jury instructions during the
5 Court's three charging conferences. Not including time spent reviewing transcripts of
6 proceedings for days I did not attend trial and not including my attendance at closing
7 arguments, I spent approximately 104 hours on these tasks during trial.

8 19. After the verdict I was responsible for drafting the form of judgment, portions of
9 Plaintiffs' initial papers in support of equitable relief, and portions of Plaintiffs' opposition to
10 Defendants' post-trial motions. Because of a family medical situation with Mr. Mayer, I had
11 primary responsibility for drafting the reply memorandum in support of equitable relief, which
12 included serving as primary drafter of certain portions of the memorandum, while coordinating
13 and integrating portions drafted by other team members. Not including the time I spent
14 attending the Court's May 5, 2020 case management conference, time spent on certain team
15 conference calls, and time spent on excessive research, I spent approximately 110 hours of time
16 on post-trial tasks.

17 20. I have participated in team calls regarding this attorney's fees motion and
18 prepared this declaration. I have spent approximately 9 hours of time on the fees motion.

19 I declare under penalty of perjury under the laws of the United States of America that
20 the foregoing is true and correct.

21
22 Executed this 18th day of September 2020, in Los Angeles, California.

23
24 /s/ Oscar D. Ramallo
25 OSCAR D. RAMALLO
26
27
28

ECF ATTESTATION

In accordance with Civil Local Rule 5-1(i)(3), I attest that concurrence in the filing of this document has been obtained from the signatory.

Dated: September 18, 2020

/s/ Steven L. Mayer
Steven L. Mayer